

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

RAUL MONTES,)	
)	
Petitioner)	
)	Civil Action No.
v.)	04cv11748-JLT
)	
IMMIGRATION AND NATURALIZATION)	
SERVICE ¹)	
)	
Respondent ²)	

MOTION TO DISMISS OR TRANSFER IN THE ALTERNATIVE

Respondent moves to dismiss this action pursuant to Fed. R. Civ. P. Rule 12(b)(2) for lack of in personam jurisdiction over the proper respondent, or in the alternative to transfer the case to the United States District Court for the Southern District of Florida, Miami Division.

¹ The Immigration and Naturalization Service of the United States Department of Justice was "abolished" by section 471 of the Homeland Security Act of 2002, Pub. L. 107-296, tit. IV, subtit. D, E, F, 116 Stat. 2135, 2192 (Nov. 25, 2002) ("HSA"). Most of the interior enforcement functions of the former INS were transferred to the Department of Homeland Security ("DHS"), Directorate of Border and Transportation Security, Bureau of Immigration and Customs Enforcement. These changes were effective March 1, 2003.

² The officer responsible for enforcing the order of exclusion and deportation in this case is the Bureau of Immigration and Customs Enforcement Field Office Director for Detention and Removal Operations in Miami, Florida, within whose jurisdiction petitioner resides.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: s/Frank Crowley
FRANK CROWLEY
Special Assistant U.S. Attorney
Department of Homeland Security
P.O. Box 8728
J.F.K. Station
Boston, MA 02114
(617) 565-2415

CERTIFICATE OF SERVICE

I hereby certify that I caused true copy of the above document to be served upon pro se petitioner by mail on August 17, 2004.

s/Frank Crowley
FRANK CROWLEY
Special Assistant U.S. Attorney
Department of Homeland Security
P.O. Box 8728
J.F.K. Station
Boston, MA 02114